

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARGARET SHERMAN, et al.,)	
)	
Plaintiffs,)	
)	8:04CV300
vs.)	
)	ORDER
SHANGLI JIN XIN EXPORT FIREWORKS)	
FACTORY, et al.,)	
)	
Defendants.)	

This matter is before the court on the Motion of Donald E. Creadore for leave to withdraw as counsel for Shangli Jin Xin Export Fireworks Factory [309]. This motion was filed only 13 days before trial, and substitute counsel has not entered an appearance.

Allowing Mr. Creadore to withdraw under these circumstances would most likely result in the entry of default against his client. The Eighth Circuit has held that "the law does not allow a corporation to proceed pro se." *Ackra Direct Mktg. Corp. v. Fingerhut Corp.*, 86 F.3d 852, 857 (8th Cir. 1996); see also *United States v. Van Stelton*, 988 F.2d 70, 70 (8th Cir. 1993) (noting that a corporation may not appear pro se); *Carr Enters., Inc. v. United States*, 698 F.2d 952, 953 (8th Cir. 1983) ("[i]t is settled law that a corporation may be represented only by licensed counsel"). In fact, according to the Eighth Circuit, a corporation is technically in default as of the date its counsel is permitted to withdraw from the case without substitute counsel appearing. *Ackra Direct*, 86 F.3d at 857.

Considering the untimeliness of the motion and the likely prejudice to the client,

IT IS ORDERED that the motion for leave to withdraw [309] is denied, without prejudice to reassertion if substitute counsel enters an appearance and is prepared to begin trial on March 13, 2007, as scheduled.

Pursuant to NECivR 72.2, a party may appeal this order by filing a "Statement of Appeal of Magistrate Judge's Order" within ten (10) days after being served with the order. The party shall specifically state the order or portion thereof appealed from and the basis of the appeal. The appealing party shall file contemporaneously with the statement of appeal a brief setting forth the party's arguments that the magistrate judge's order is clearly erroneous or contrary to law. **The filing of a statement of appeal does not automatically stay the magistrate judge's order pending appeal.** See NECivR 72.2(d).

DATED February 28, 2007.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge